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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,058	01/10/2002	Paul Harry Abbott	GB920010007US1	9940

7590 08/23/2005

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EXAMINER

SZYMANSKI, THOMAS M

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,058

Applicant(s)

ABBOTT, PAUL HARRY

Examiner

Thomas Szymanski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/21/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-34 have been examined.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The applicant is requested to review the specification and update the status of all co-pending applications made mention of, replacing attorney docket numbers with current U.S. application or patent numbers when appropriate. References to U.S. applications or patents should make it clear as to what the number refers (e.g. U.S. Patent No. #), instead of listing only the number.
4. The use of the trademark Java has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 11-12, 21-22 and 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 11-12, 21-22 and 33-34 contain the trademark/trade name Java. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a type of storage means and a means for implementing an algorithm and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Regarding Claims 1-22: The claimed invention is directed to non-statutory subject matter. That which is claimed within the above referenced claims is not of a concrete and tangible nature. The contents of the claims are directed to an algorithm, and a storage means that is defined as a data file. Both an algorithm and a data file are

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not tangible since neither is contained within any concrete means but may exist solely as an idea or within a carrier wave or other non-tangible format.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-6, 9, 11-17, 20-28, and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bahls et al U.S. Patent No. 5,706,513.

12. Regarding Claims 1, 11, and 12: storing a key or a certificate in a storage means (Fig 7, Col 3 lines 6-9, 35-38, 47-52) Bahls et al stores the key along with the data as denoted.

Fragmenting the key or certificate into non-uniform lengths according to an algorithm (Fig 7, Col 3 lines 41-60, Col 5 lines 33-67, Col 6 lines 1-3) As defined non-uniform means not homogeneous in structure or composition throughout. It can be clearly seen from the exemplary situation that the object is divided into N pieces and stored along with the key. Bahls et al states that each piece is of a specified length except where the object length is not a multiple of the segment size thus the segments are not of a uniform size since the last segment will not equal the others in length.

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Fragments are intermixed with storage means (Fig 7, Col 3 lines 41-60) As prescribed the key is stored along with data object fragments thus being intermixed as can be seen from figure 7.

13. Regarding Claim 2: The storage means is a data file (Fig 2, Fig 7, Col 3 lines 5-9) Bahls et al stores the key in the storage medium containing fragments of the data object. It is stated that the key is stored with the individual fragments thus being stored as a data file.

14. Regarding Claim 3: Storage means contains random bit patterns (Col 5 lines 66-67) Bahls et al states that the segment may be partially composed of nulls. Nulls as defined relate to material of no consequence, effect, or value, as such these nulls may be of any nature such as that of random bit patterns since a random bit pattern follows the same as being of no consequence, effect, or value.

15. Regarding Claim 4: Fragmenting the entity includes fragmenting the bytes (Col 5 lines 33-66) The division of any digital file has to be in such a manner as to be fragmenting the bytes, since the bytes are what the file is composed of, and the act of fragmenting an object consists of separating it amongst its smaller pieces.

16. Regarding Claim 5: Location of storing fragments is determined by the algorithm (Col 5 lines 33-67, Col 6 lines 1-3) An algorithm as defined means A step-by-step problem-solving procedure, for solving a problem in a finite number of steps. Any implementation that resolves such an issue must then logically be composed of an algorithm, as such the claim is anticipated.

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17. Regarding Claim 6: Algorithm can be used to find the fragments (Col 5 lines 33-67, Col 6 lines 1-3) As stated previously an algorithm must be used to perform such a function and furthermore the implementation of such an algorithm provides for a reciprocal process.

18. Regarding Claim 9: Bit map as a record of fragment locations (Fig 2, Fig 7) As it can be seen from the figures the Implementation of this system provides for a bit map as a record of fragment locations. During the processing of these files they are staged into queues and as such have formed a map of the actual file since it is no longer together but segmented into bits and thus only represented while staged. These segmented bit patterns provide for the reconstruction of the file upon it's use or the file being placed back into permanent storage.

19. Claims 13-17, 20-28, and 33-34 are an apparatus and computer program product implementation of the above rejected claims and as such are rejected on the same basis.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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21. Claims 7-8, 18-19, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bahls et al U.S. Patent No. 5,706,513 as applied to claim 1 above, and further in view of Stein U.S. Patent No. 6,370,250.

22. Bahls et al discloses a system for the storage and fragmentation of keys. Bahls et al, however, fails to disclose the use of a password with the storage means. (Bahls et al Col 6 lines 9-13)

23. Stein teaches the use of a password in combination with a storage means and an algorithm.

24. It is a desirable function within any system but especially one that is of a sensitive nature to be able to password protect the information and integrity of the security apparatus of that system. The implementation of a password is a common security function to prevent unauthorized access to a system and is known to be effective and desirable to utilize.

25. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine the password protection schema of Stein with the system of Bahls et al for the advantages of improved security of data.

26. Regarding Claim 7: Storage means has a pass code used by the algorithm (Col 2 lines 20-28) Stein provides an encrypted file, that is encrypted by a password, that can only be decrypted by use of the same password. The encrypted file is the storage means since the key is combined with another value thus the storage means utilizes the password by way of an algorithm to encrypt the data.

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27. Regarding Claim 8: Fragments stored at locations determined by pass code (Col 2 lines 20-28, Col 4 lines 54-65) The location of the fragments is determined by the manner of the encryption of the key by the password since the algorithm that is implemented is combined with the key thereby transforming the fragments and thus changing the composition of the file to transform the location of the actual key within the file by way of the operation performed upon it.

28. Claims 18-19 and 29-30 are an apparatus and computer program product implementation of the above rejected claims and as such are rejected on the same basis.

29. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bahls et al U.S. Patent No. 5,706,513 as applied to claim 1 above.

30. Regarding Claim 10: Fragment stored immediately after another if storage location is occupied. It is well known within the art that when implementing an algorithm such as a hash algorithm for the placement of objects amongst potential storage spots that when a collision occurs the object is stored immediately following the occupied spot. Thus Official notice is given that performing such an operation is a well known practice within the art.

31. Claim 32 is a computer program product implementation of the above rejected claim and as such is rejected on the same basis.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection

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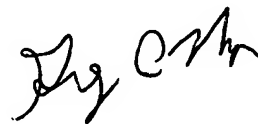
of claims, the patentable novelty must be clearly shown in view of the state of art disclosed by the references cited and the objections made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

33. Inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas M. Szymanski who can be reached at (571) 272-8574. The examiner's normal working schedule is between the hours 8:00am – 4:30pm (EST), Monday – Friday.

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

35. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL



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